

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ALBERT BIBBS,

Petitioner,

No. C 08-04377 JSW

v.

BEN CURRY, Warden, and BOARD OF
PAROLE HEARINGS, ARNOLD
SCHWARZENEGGER, Real Parties in
Interest,

ORDER TO SHOW CAUSE

Respondents.

Movant, Albert Bibbs, a state prisoner, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

BACKGROUND

Petitioner was convicted by a jury of one count of attempted willful, deliberate and premeditated murder (Cal. Penal Code §§ 187, 664) and was sentenced to life plus five years, with enhancements pursuant to California Penal Code §§ 12022.7 and 12022.55.

LEGAL CLAIMS

Petitioner does not challenge the validity of his underlying conviction or the resulting sentence. Rather, Petitioner seeks federal habeas corpus relief by raising the claim that the California Board of Parole Hearings has violated the Due Process Clause of the 14th Amendment to the United States Constitution by its repeated denials of parole to Petitioner.

1 Liberally construed, the claim appears potentially colorable under 28 U.S.C. § 2254 and merit
2 an answer from Respondents.

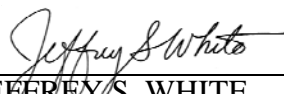
3 **CONCLUSION**

4 For the foregoing reasons and for good cause shown:

- 5 1. Petitioner shall serve by certified mail a copy of this Order and the petition and
6 all attachments thereto upon Respondents.
- 7 2. Respondents shall file with the Court and serve on Petitioner, within 60 days of
8 the date of this Order, an answer conforming in all respects to Rule 5 of the
9 Rules Governing Section 2254 Cases, showing cause why a writ of habeas
10 corpus should not be issued. Respondents shall file with the answer and serve on
11 Petitioner a copy of all portions of the administrative record that are relevant to a
12 determination of the issues presented by the petition.
- 13 3. If Petitioner wishes to respond to the answer, he shall do so by filing a traverse
14 with the Court and serving it on Respondents within 30 days of his receipt of the
15 answer.

16 **IT IS SO ORDERED.**

17
18 Dated: November 14, 2008



JEFFREYS. WHITE
UNITED STATES DISTRICT JUDGE